

**REPORT OF THE JUDICIAL RESOURCES COMMISSION
TO THE SUPREME COURT
AND GENERAL ASSEMBLY
CY 1999**

PREPARED PURSUANT TO §476.415, RSMO

JUDICIAL RESOURCES COMMISSION

1999

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Since issuing its first report in 1991, the Judicial Resources Commission has met annually to review the state of the judiciary and make recommendations as needed. The following is the report for Calendar Year 1999.

JURY MANAGEMENT

Courts continue to experience difficulty assembling jury pools and the public continues to regard jury service as too burdensome. Improving juror compensation, providing better accommodations, insuring jurors' safety, and making jury duty a more positive experience remain important goals. Senate Bill 1, passed in this legislative session, provides several changes relating to juries. Jury duty pay is increased if the county contributes at least \$6. If so, then the State will contribute an additional \$6, bringing the total to \$18. The jury supervisor, in accordance with the circuit court's guidelines, may postpone a prospective juror's service to a later date. One provision of this bill has an effective date of 1/1/05. This provision prohibits jurors from attending court for prospective jury service for more than two days unless the juror is selected to serve on a panel for jury service under Section 494.420.2, RSMo, or in one particular case. The other provisions were effective 8/28/99. While these are important changes, there remains a need for automated juror selection and management system statewide, as well as a need to study safety issues. While some courts, particularly in the metro areas, have initiated programs that include escorting jurors to their vehicles and keeping identifying information confidential both during and after a trial, these practices are not employed state-wide, and their absence is often a deterrent to prospective jurors. The Commission also notes that the number of preemptory challenges permitted significantly affects the size of a panel that must be summoned.

The Commission recommends that the General Assembly consider legislation which improves procedures for jurors and the protection of citizens asked to perform service as jurors. The Commission also recommends that a statewide commission be established to study the safety, compensation, and number of jurors, and that it take into consideration the impact of preemptory challenges on the size of the panel.

CIRCUIT CLERKS

The position of circuit clerk is a highly responsible position that is critical to the efficient operation of the circuit courts. Appointment of all circuit clerks would provide personnel with the required qualifications for this office. The Chief Justice was authorized by the Circuit Clerk's Association to report to the general assembly that 90% of circuit clerks now support being appointed and made subject to Administrative Rule 7.

The Commission recommends the appointment of all circuit clerks.

COURTHOUSE FACILITIES/FOREIGN LANGUAGE INTERPRETERS

Courts lack facilities to accommodate senior and transferred judges, lack jury facilities and clerical workspace. These problems will become more acute as automation progresses and courts need adequate wiring and space for computer hardware. Some courts are still not in compliance with the Americans with Disabilities Act (ADA). Additionally, effective courthouse security is lacking in the majority of Missouri's courts. The influx of non-English speaking people into Missouri and traveling through the state has created a problem with providing adequate foreign language interpreters for the courts. A decision item is included in the FY 2001 budget for a Program Coordinator for Access to the Courts. This individual will be working with the courts on ADA issues, foreign language, and pro se litigant issues. Missouri recently joined the Foreign Language Consortium to enable it to develop testing and certification procedures. In 1999, the Office of State Courts Administrator (OSCA) purchased and distributed 40 assistive-listening devices to courts to aid in making proceedings available to the hearing impaired. OSCA is also preparing to send out a survey to all counties for completion on their facilities, updates, renovations, new courthouses, etc., and then to develop a database in which the information can be maintained.

The Commission recommends that assistance be given to help the courts with compliance with the ADA be done. The Commission supports OSCA's request for a Program Coordinator for Access to the Courts. The Commission also notes that, in many circuits, there is a need for additional courtroom space and encourages local governments to provide additional space where needed.

MUNICIPAL COURTS

Municipal courts handle municipal ordinance violations. Section 479.020, RSMo provides that "Any city, town or village, including those operating under a constitutional or special charter, may, and cities with a population of four hundred thousand or more shall, provide by ordinance or charter for the selection, tenure and compensation of a municipal judge or judges...." (Where a municipal judge has not been appointed or elected, associate circuit judges hear municipal cases.) Municipal judges in Kansas City are appointed under the non-partisan court plan. In municipalities with a population under 7,500, municipal judges are not required to be attorneys. At present, about 25% of the 336 municipal judges are non-lawyers. Many municipal courts operate relatively autonomously. While the presiding judge of the circuit has superintending authority, in fact many courts are unsupervised until a problem develops. Because the municipal courts are the only courts that many citizens have contact with, and municipal judges have the authority to assess monetary fines and jail sentences, the Commission recommends that municipal judges meet the high standards of the rest of the judiciary.

A revolving fund has been authorized by the General Assembly to handle moneys sent from municipalities to pay for municipal court training programs developed by the Office of State Courts Administrator. Programming for municipal judges has increased 300%, and this program is being expanded.

The Commission recommends that all municipal judges be attorneys. The Commission also recommends that the General Assembly appoint a Joint Committee to study this issue. Specifically, the committee should study the administration, training and standards for the municipal courts. Any recommendations coming out of this process should be jointly addressed by the judicial, legislative and state and local executive branches. The Commission supports continued funding for education programs, and further, recommends that the number of training sessions available exclusively to non-lawyer judges be increased.

JUVENILE FACILITIES AND TREATMENT SERVICE

The number of children entering the juvenile justice system continues to increase, as does the number of children certified to stand trial as an adult. The number of cases filed in the juvenile courts continues to climb, led by allegations of state law violations and of abuse and neglect. In the past ten years, there has been an increase of 34% in the total number of juvenile cases filed; projections show this increase to be 59% by 2002. Part of the rise is the increase in termination of parental rights cases and adoptions, fueled by state initiatives to reduce the amount of time children spend in foster and other alternative care situations. There is a lack of treatment and detention facilities for certified and other levels of juvenile offenders. The legislative requirement that state agencies share data is difficult because the juvenile system is not automated.

Again in 1999, there has been significant progress in the area of juvenile justice. A standardized assessment and classification system for juvenile offenders is now in use. The approval of a federal appropriation of \$7 million has allowed the initial planning for an automated juvenile justice information system. In July of 1999, 466.3 FTE from the juvenile courts were converted to state employees. This is a significant step toward enhancing the ability and procedures of juvenile court employees. The FY 2001 budget contains a request for additional FTE in the State Court Administrators office and in the courts to help the courts comply with legislative mandates relating to juveniles.

The Commission supports the Office of State Courts Administrator in its budget request for additional FTE to allow it to comply with the legislative requirements for juveniles.

FEDERAL CHILD ABUSE/NEGLECT MANDATES

Federal legislation has imposed requirements on states relating to child abuse and neglect cases. Missouri has responded to the federal requirements with legislation to bring state law into compliance. The Office of State Courts Administrator has continued permanency placement pilot projects in the 2nd and 23rd judicial circuits to assess the problems and methods involved in, among other areas, expedited adoptions, dual planning, and a shorter time frame for termination of parental rights proceedings. Even in their early stages, these projects have proven to be successful. This year, funding is again being sought in the budget to continue the projects and expand them in additional circuits.

The Commission supports the request for funding in the FY 2001 to continue and expand the permanency planning project.

FAMILY COURTS

Family Courts, established by statute in 1993, offer a means of coordinating many related judicial activities. Under the "umbrella" of the family court, domestic relations cases, adoptions, juvenile cases, adult abuse/child protection petitions, paternity cases and child support issues are handled by a single court whose primary purpose is to adjudicate these often-related cases. To date, family courts have been established in the 7th, 11th, 13th, 16th, 20th, 21st, 22nd, 23rd, and 31st circuits. However, not all Family Courts are providing the coordinated services that were intended by the legislation, and many courts do not provide the coordinated services that benefit litigants and their families. Separate judges and clerks handle juvenile, adult abuse, domestic relations, and paternity cases, despite the fact that some of the cases overlap and could be best addressed as a whole. The present system places court clerical staff in situations which are more appropriate for trained professional staff, e.g., assisting with adult abuse petitions, discussing visitation problems, etc.

The Unified Family Court Committee has been created to develop family court operational and functional standards to be presented to the Supreme Court for adoption. A pilot Unified Family Court is proposed for the 22nd Judicial Circuit.

The Commission recommends that, wherever possible and needed, Family Courts be established. It also recommends that adult abuse and child protection assistance be provided by someone other than a clerk, preferably a professional staff member. The Commission encourages presiding judges to adopt mediation programs, or an analogous program, in those domestic relations cases where children are involved. The Commission also recommends that, wherever a Family Court is created, the court provide the maximum programs and services possible for all family members. The Commission supports the request for funding for a pilot project in the 22nd Judicial Circuit.

JUDICIAL RESOURCES ALLOCATION

The Commission recommends that the issue of allocation of judges be jointly addressed by the judicial, executive and legislative branches at the earliest possible time so that caseloads among judges in the various circuits will be brought into better balance, and that caseloads be reviewed on a regular basis to insure that judicial resources continue to be properly allocated.

Legislation in recent years has created a number of judicial commissioners, most notably in family courts. Since these commissioners are not elected or appointed by the governor, as are judges, the issue of converting judicial commissioner positions to judgeships has been raised. Legislation was introduced in the 1999 legislative session to convert judicial commissioner positions, but it did not pass.

The Commission recommends that the issue of converting judicial commissioner positions to judgeships be addressed by the legislature, the governor, and the judiciary.

SENIOR JUDGES

Section 476.682, RSMo provides the statutory basis for compensating senior judges the difference between their judicial retirement and the salary of the office for those days they sit as a senior judge pursuant to Supreme Court order. The senior judges provide assistance, where needed, for a fraction of the cost of a permanent judge. This program is working very well, as senior judges continue to provide a valuable service for Missourians.

In FY 99, 53 retired judges accepted assignments to serve as senior judges. Senior judges served for 2,432 days in FY 99. This amounts to 486 weeks of judicial service provided by senior judges where vacancies had occurred due to retirement or illness, keeping dockets current until a replacement was appointed or in an effort by the court to remain current. Based on the statutory standard of 235 days equaling one year's service, senior judges provided over 10 judgeships in FY 99. In addition, senior judges were assigned to 408 individual cases that were for the most part multi-day jury trials or complex matters.

The long-time problem of a lack of full compensation for senior judges has been solved by a sufficient appropriation since FY 1997. Legislation passed in 1999 changes the salary formula, increasing the pay for senior judges. However, senior judges continue to experience difficulties with inadequate courthouse space and facilities, including the absence of a court reporter in most instances. At present, official court reporters frequently cannot be freed from regular assignments to preserve lengthy or complex trials conducted by senior judges—the types of trials they are most likely to conduct. As a result, litigants willing to use a senior judge who wish to have a court reporter are required to pay for the related costs themselves. This is unfair, since other litigants who have similar cases heard by active circuit judges are not required to assume those costs.

The Commission recommends that adequate support services be provided for senior judges, including court reporters for lengthy or complex trials. The Commission recommends that presiding judges arrange for necessary facilities—court reporter, courtroom—in advance for a senior judge who has agreed to serve. The Commission also recommends that the temporary court reporter fund be expanded to cover payment for court reporters for senior judges when one is not available. The Commission commends the General Assembly for fully funding senior judge compensation and strongly supports future increases in appropriations as needed to accommodate the efficient utilization of the valuable resource made available by senior judges. The Commission also commends senior judges who continue to provide this valuable service.

TIME STANDARDS

Progress was made in 3 of the 5 time standards categories during fiscal year 1999. The Judicial Conference established the Daniel O'Toole award to be presented to courts that achieved significant compliance with the time standards. For 1999, the recipients were the 14th and 32nd circuits. A table detailing the status of time standards accompanies this report.

No recommendation required other than that the courts continue to evaluate the progress of time standards implementation.

PUBLIC DEFENDER

Historically, Missouri's Public Defender System had great difficulty retaining experienced attorneys. As late as 1994, nearly 20 percent of all Missouri Public Defenders resigned annually, usually citing low compensation as the reason. Since 1994, funding increases have improved attorney salaries and retention is greatly improved. Today's attorney turnover rate is approximately eight percent and the average tenure of a Missouri Public Defender is approximately five years. These more experienced Public Defenders are providing better representation and have greatly contributed to a higher case disposition rate.

While retention has greatly improved, recruitment is today's challenge. Most new hires into Missouri's Public Defender System are recent law school graduates. A robust economy has made it difficult for the State Public Defender to compete when recruiting new law school graduates. Also, today's law school graduate often graduates with exorbitant student loans. Student loans of \$75,000 to \$100,000 are not unheard of. The State Public Defender Commission is exploring the possibility of loan forgiveness programs, particularly for law school graduates willing to locate in critical need areas of the state.

The caseload of Missouri's Public Defender System increased dramatically in FY98. Total assigned cases were 76,462, up eight percent. However, this increase was not repeated in FY99. Total case assignments were down slightly to 73,738, and total case dispositions were up slightly, 74,570. However, projecting eight percent annual increases (the average increase incurred over the past 15 years), Missouri's Public Defender System caseload will exceed 100,000 cases by the year 2004.

The Juvenile Public Defender office in the metropolitan St. Louis area, which was approved by the Public Defender Commission in September, 1996, has greatly improved juvenile court representation. The State Public Defender Commission seeks additional funding for FY01 for additional staff to replicate this highly successful program in the Kansas City area. Both offices would be resource centers for public defenders in rural areas of the state where juvenile caseload is simply insufficient to support specialized Juvenile Public Defender Offices.

Finally, the Public Defender and staff must have adequate, and sufficient office space. Three years ago, and again this past year, the State Public Defender Commission sought a change to RSMo. 600.040.1 and the funding to make the financial burden of office space a state, rather than county obligation. They were unsuccessful. Instead, the general assembly approved language to House Bill 5, which would allow the interception of county prisoner per diem refunds if that county was failing to meet its obligation under RSMo. 600.040. The State Public Defender Commission continued to seek the cooperation of county governments in this area and closely monitored the changes to House Bill 5 in the hopes county governments would comply with their statutory obligation. While some did, most counties view the interceptions as heavy-handed, state mandate type tactics, straining county/state relations.

Also, a new section, RSMo. 600.101 was enacted. It calls for disputes between the Office of State Public Defender and the counties to be presented to the Judicial Finance Committee. It also calls for a report from the Judicial Resource Commission to the chairs of the House and Senate Judiciary and Budget Committees. (This report will be submitted separately).

The Commission supports the Public Defender's Office in its effort to revise §600.040, RSMo. and its budget request for funding for office space needs, to address the growing caseload, and to replicate the Juvenile Advocacy Program in Kansas City.

STATEWIDE COURT AUTOMATION

The Missouri Court Automation (MCA) Committee is implementing the statewide plan developed in the information architecture and adopted in July 1996. Project staff are working with 14 Courts and the Fine Collection Center to implement Banner Courts, the statewide case management system that will help court staff process cases more efficiently for public access and information exchange, eventually resulting in a completely integrated justice system for Missouri. Pilot Court implementations are complete. The Court of Appeals – Eastern District, Jackson County-Civil Division and Montgomery County are fully operational using the Banner case management system. Alpha Court implementations are in process. The Barton County – Civil and Probate Divisions, the Court of Appeals – Southern District, and the Court of Appeals – Western District are fully operational using the Banner case management system. The Supreme Court Banner implementation has been completed.

Y2K Court implementations are in process: seven courts with identified Year 2000 compliance issues (Boone, Cole, Franklin, Platte, St. Charles, Taney and Warren Counties) have begun the implementation process and will be operational with Banner before the end of 1999.

The success of court automation is completely dependent on the availability of hardware and software capable of supporting and working with the court automation applications.

The Commission acknowledges the ongoing need to maintain the automation system, to expand the applications of the system, and to replace and maintain equipment. Therefore, the Commission supports funding what will be an indispensable service within the judiciary.

REGIONAL JUSTICE CENTERS

The county-based courthouse system currently in place in Missouri is inefficient and archaic as Missouri approaches the 21st century. The concept of regional justice centers has emerged in recent years as a means of modernizing the way justice-related facilities are developed. The 24th and 28th Circuits have been selected as study sites for the establishment of regional justice centers. Such centers, at a minimum, would consolidate jails, court facilities and staff, public defender services, and probation and parole personnel in one location within the circuit. Funds for the study were provided by a federal grant with matching funds provided from the Governor's Reserve. The study is expected to be completed by June 30, 2000.

The Commission supports the concepts of regional justice centers.

FISCAL ASSISTANCE

Requests for additional FTE based on fiscal notes have not always been approved, causing workload problems for the courts. However, the governor's office is committed to providing its support for ongoing staffing assistance to courts even though the central collection and disbursement of child support is being removed from courts beginning in October of 1999. While this workload factor will decrease, the offsetting increases in case-related work and increased reporting responsibilities have grown to the point that weighted workload per FTE remains well above the historic mean.

The Commission commends the governor's office and the general assembly for their commitment to the courts through continued staffing assistance.

EMERGING ISSUES

In addition to the issues addressed above, the Commission identified several areas of the judicial system that are attracting growing interest, specifically:

- **Mediation and ADR services.** At present, there is no dedicated program housed within the judiciary to support state courts' efforts to deliver Alternative Dispute Resolution (ADR) services to litigants as authorized in Chapters 435, 452, and 487, RSMo and provided for in Supreme Court Rules 17 and 88.

The FY 2001 budget requests funding necessary to support local programming costs associated with development and implementation of a model ADR program in the two selected courts. These courts will be required to provide a wide array of ADR services, which may include, per Supreme Court Rules 17: arbitration, early neutral evaluation, mediation, mini-trial, summary jury trial, or other local court ADR programs.

The Commission supports the funding request for model ADR programs in the FY 2001 budget and supports, in general, movements toward ADR programs within the courts.

- **Increased community-based sentencing alternatives.** This is an area of growing interest nationwide, as states seek ways to cope with the growing costs of new prisons, and the cost to society of recidivism among former prison inmates.

- **Court-appointed special advocate programs.** Missouri had 16,535 children in Division of Family Services custody at some time during FY 1998. The average age of those children was 9.8 years; 56% came into care due to neglect, 21% physical abuse, 17% sexual abuse, and 6% for other reasons. Court appointed special advocates (CASAs) are volunteers who serve in various capacities to assist the courts and DFS to minimize the time a child spends in official care and maximize the chance that the child will have a home safe from abuse and neglect in a timely manner. This both benefits the child, and saves the state considerable expense for foster care.
- **Drug Courts.** In 1998, the legislature passed HB 1147 which provided that "Drug courts may be established by any circuit court pursuant to sections 478.001 to 478.006 to provide an alternative for the judicial system to dispose of cases which stem from drug use." The main purpose of a drug court program is to use the authority of the court to reduce crime by changing defendants' drug-using behavior. Under this concept, defendants are diverted to drug court programs in various ways and at various stages of the judicial process, depending on the circumstances. Early studies show a substantial decrease in re-arrests.

The Circuit Court Budget Committee is requesting a total of eleven professional positions to assist with the implementation of provisions relating to drug courts, in each of the 11th, 13th, 16th, 20th, 22nd, 31st, 33rd, and 40th circuits.

The Commission supports the concept of drug courts and the budget request for FY 2001.

- **Teen Courts.** Teen courts use peer court players, i.e., jury, judge, prosecution, defense attorney, bailiff, and court clerk, to deal with status offenses and non-serious delinquency cases involving first-time offenders. The key components of a teen court include early intervention, expedited case processing, accountability for offenses by peers, community collaboration and coordination, and, involvement of parents.
- **Uncollected court costs.** The issue of court costs that remain uncollected has not been addressed by the Commission but may be an area for future study.

REPORT OF THE COMMISSION ON JUDICIAL RESOURCES

December, 1999

STATEWIDE CASELOAD, TRANSFER AND ASSIGNMENTS STATISTICS

FY 1999

Graph 1
Missouri Circuit Court
Cases Filed and Disposed
FY 1999

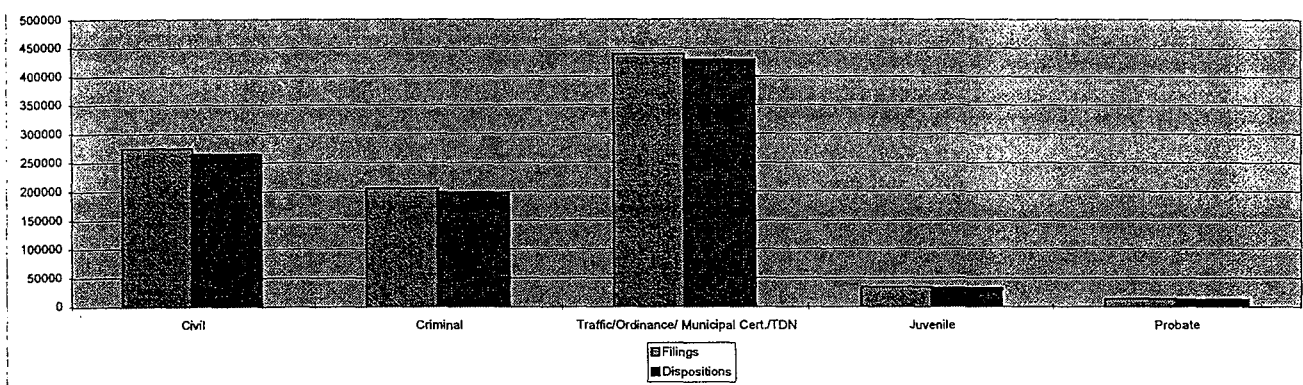


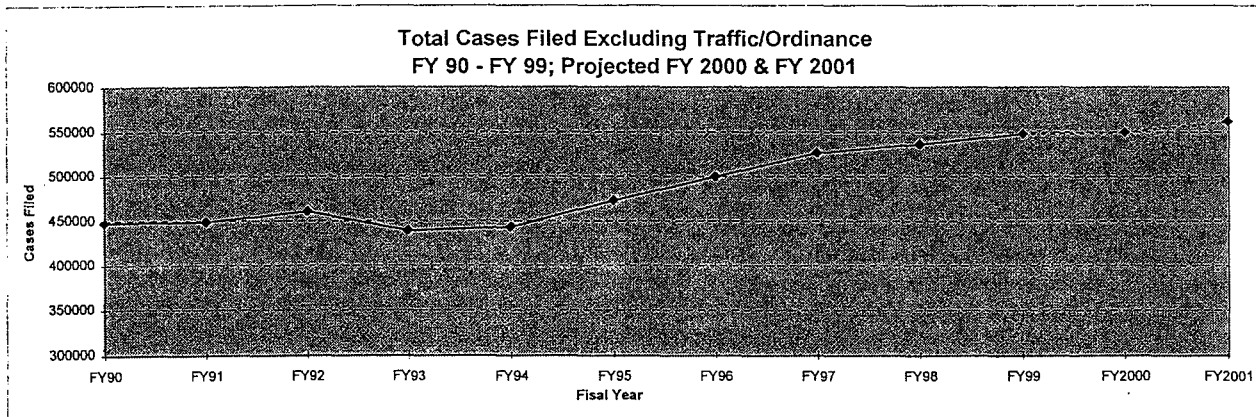
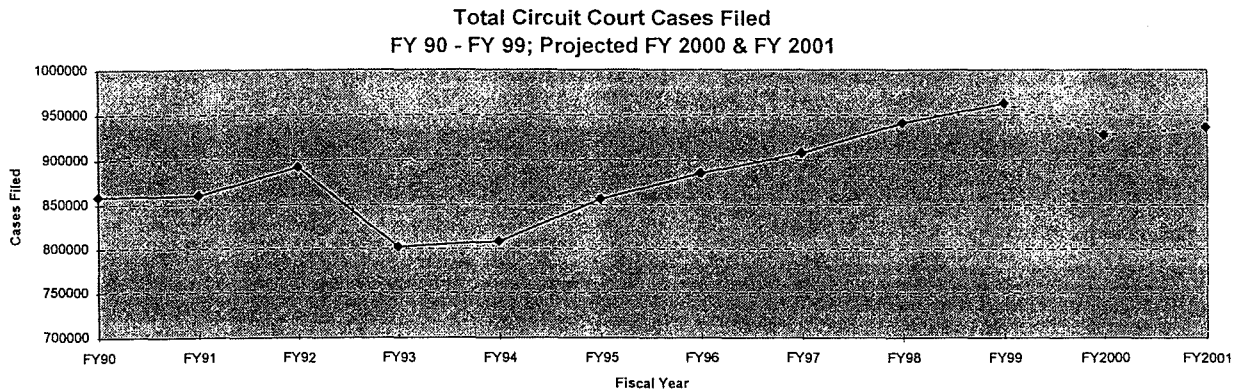
Table 1
Missouri Circuit Court
Cases Filed and Disposed by Case Type
FY 1999

Case Type	Filed	Disposed	*Disposition to Filing Ratio
Civil	274145	264265	0.96
Criminal	204276	197184	0.97
Traffic/Ordinance/ Municipal Cert./TDN	438306	428223	0.98
Juvenile	33261	31918	0.96
Probate	12998	11593	0.89
Total	962986	933183	0.97

* This ratio, calculated by dividing the number of cases disposed by the number filed, gives an indication of how well the courts are keeping up with their workload. A ratio of 1.00 or greater indicates that the courts disposed at least as many cases as were filed. A ratio of less than 1.00 indicates that the courts disposed fewer cases than were filed and experienced an increase in pending caseload.

REPORT OF THE COMMISSION ON JUDICIAL RESOURCES
DECEMBER, 1999

OVERALL CASELOAD GROWTH



The creation of the St. Louis County traffic court and the volatility of the high-volume state traffic caseload can be seen in the comparison of total case filings with and without traffic. Legislation shifted about 55,000 county ordinance cases to a new St. Louis County traffic court in 1993, and the state traffic case volume was down in FY 93 and FY94.

Please note: "Total Circuit Court Cases Filed" includes civil, criminal, juvenile, and probate statistics.

Table 2
Missouri Circuit Court
Cases Disposed by Manner of Disposition
FY 1999

Case Type	---With Trial---		-----Without Trial-----				Total
	Jury	Court	Uncontested	Plea	Dismissed	*Other	
Civil	837	40,319	120,768	n/a	96,279	6,062	264,265
Criminal	765	1,614	n/a	108,530	54,086	32,189	197,184
Traffic/Ord./Municipal Cert./TDN	45	8,118	n/a	375,015	43,310	1,735	428,223
Total	1,647	50,051	120,768	483,545	193,675	39,986	889,672

* Other includes such manners of disposition as change of venue, certification, and bind over of felony preliminary cases.

Table 3
Missouri Circuit Court
Judge Transfers/Assignments
FY 1999

	<u>No of Days</u>	<u>No of Individual Case Assignments</u>	<u>*Total Civil/ Criminal Cases Disposed</u>
Transfers of Associate/ Circuit Judges	1,867	1,664	11,391
Senior Judge Assignments	7,978	408	9,456

Note: Transfers/assignments are made for either specific periods of time or to handle individual cases. Numerous cases may be heard in a single period-of-time assignment.

* Not available for traffic, probate or juvenile case types.

Case Processing Time Standards Age of Case At Disposition FY 1999				
Time Standard Category	Standard for Age of Case at Disposition in the State	Actual Performance Statewide	Percent Change from FY 1998	Circuits Meeting Both Standards in FY 1999
Circuit Civil				
In 18 months	90%	80%	1%	19
In 24 months	98%	88%	1%	
Domestic Relations				
In 8 months	90%	83%	0%	14
In 12 months	98%	90%	0%	
Circuit Felony				
In 8 months	90%	87%	2%	5, 13, 14, 23, 27 30, 32, 35, 36
In 12 months	98%	94%	1%	
Associate Civil				
In 6 months	90%	89%	5%	1, 2, 4, 6, 9, 12, 13 14, 17, 19, 23, 28 32, 34, 36, 39, 42, 44, 45
In 12 months	98%	97%	2%	
Associate Criminal				
In 4 months	90%	77%	-2%	2, 14, 35
In 6 months	98%	88%	-1%	